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Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session

Report of the Sixth Committee

Rapporteur: Mr. Karim **Medrek** (Morocco)

I. Introduction

1. At its 19th plenary meeting, on 20 September 2002, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-seventh session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 4th, 5th, and 16th to 19th meetings, on 30 September and 17, 18, 22 and 24 October 2002. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/57/SR.4, 5 and 16-19).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the United Nations Commission on International Trade Law on its thirty-fifth session;[1]

(b) Report of the Secretary-General on the increase in the membership of the United Nations Commission on International Trade Law (A/56/315).

4. At the 4th meeting, on 30 September, the Chairman of the United Nations Commission on International Trade Law at its thirty-fifth session introduced the report of the Commission on the work of that session (see A/C.6/57/SR.4).

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17).

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II. Consideration of proposals

A. Draft resolution A/C.6/57/L.12

5. At the 16th meeting, on 17 October, the representative of Austria, on behalf of Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Benin, Brazil, Burkina Faso, Canada, Chile, China, Costa Rica, Croatia, Cyprus, Denmark, Ecuador, Ethiopia, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, Indonesia, the Islamic Republic of Iran, Ireland, Israel, Italy, Japan, Jordan, Kenya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Morocco, the Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Paraguay, Peru, the Philippines, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, the Sudan, Sweden, Switzerland, Thailand, Trinidad and Tobago, Turkey, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela, subsequently joined by Djibouti, India, Madagascar, Suriname and the former Yugoslav Republic of Macedonia, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session" (A/C.6/57/L.12).

6. At its 17th meeting, on 18 October, the Committee adopted draft resolution A/C.6/57/L.12 without a vote (see para. 15, draft resolution I).

B. Draft resolution A/C.6/57/L.13

7. At the 16th meeting, on 17 October, the Chairman of the Committee introduced a draft resolution entitled "Model Law on International Commercial Conciliation of the United Nations Commission on International Trade Law" (A/C.6/57/L.13).

8. At its 17th meeting, on 18 October, the Committee adopted draft resolution A/C.6/57/L.13 without a vote (see para. 15, draft resolution II).

C. Draft resolution A/C.6/57/L.14

9. At the 16th meeting, on 17 October, the Chairman of the Committee introduced a draft resolution entitled "Enhancing coordination in the area of international trade law and strengthening the secretariat of the United Nations Commission on International Trade Law" (A/C.6/57/L.14).

10. At its 17th meeting, on 18 October, the Committee adopted draft resolution A/C.6/57/L.14 without a vote (see para. 15, draft resolution III).

11. Before the adoption of the draft resolution, the representative of Mexico made a statement in explanation of position (see A/C.6/57/SR.17).

D. Draft resolution A/C.6/57/L.15

12. At the 18th meeting, on 22 October, the Chairman introduced a draft resolution entitled "Enlargement of the membership of the United Nations Commission on International Trade Law" (A/C.6/57/L.15).

13. At its 19th meeting, on 24 October, the Committee adopted draft resolution A/C.6/57/L.15 without a vote (see para. 15, draft resolution IV).

14. Before the adoption of the draft resolution, the representative of Sierra Leone made a statement in explanation of position (see A/C.6/57/SR.19).

III. Recommendations of the Sixth Committee

15. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the United Nations Commission on International Trade Law on the work of its thirty-fifth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having considered the report of the Commission on its thirty-fifth session,[2]

Concerned that activities undertaken by other bodies of the United Nations system in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law, as stated in its resolution 37/106 of 16 December 1982,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field,

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[2] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17).

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on its thirty-fifth session;[2]

2. *Takes note with satisfaction* of the completion and adoption by the Commission of the United Nations Commission on International Trade Law Model Law on International Commercial Conciliation;[3]

3. *Commends* the Commission for the progress made in its work on arbitration, insolvency law, electronic commerce, privately financed infrastructure projects, security interests and transport law;

4. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, and in this connection:

(a) Expresses its appreciation to the Commission for organizing seminars and briefing missions in Brazil, Cambodia, Ecuador, Indonesia and Viet Nam;

(b) Expresses its appreciation to the Governments whose contributions enabled the seminars and briefing missions to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

(c) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the International Bank for Reconstruction and Development and regional development banks, as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission;

5. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

6. *Appeals* to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund established to provide travel assistance for developing countries that are members of the Commission, at their request and in consultation with the Secretary-General;

7. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the fifty-seventh session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are

[3] Ibid., annex I.

members of the Commission, at their request and in consultation with the Secretary-General;

8. *Reiterates*, in view of the increased work programme of the Commission, its request to the Secretary-General to strengthen the secretariat of the Commission within the bounds of the resources available in the Organization so as to ensure and enhance the effective implementation of the programme of the Commission, if possible already during the current biennium, and in any case during the biennium 2004-2005.

Draft resolution II
Model Law on International Commercial Conciliation of the United Nations Commission on International Trade Law

The General Assembly,

Recognizing the value for international trade of methods for settling commercial disputes in which the parties in dispute request a third person or persons to assist them in their attempt to settle the dispute amicably,

Noting that such dispute settlement methods, referred to by expressions such as conciliation and mediation and expressions of similar import, are increasingly used in international and domestic commercial practice as an alternative to litigation,

Considering that the use of such dispute settlement methods results in significant benefits, such as reducing the instances where a dispute leads to the termination of a commercial relationship, facilitating the administration of international transactions by commercial parties and producing savings in the administration of justice by States,

Convinced that the establishment of model legislation on these methods that is acceptable to States with different legal, social and economic systems would contribute to the development of harmonious international economic relations,

Taking note with satisfaction of the completion and adoption by the United Nations Commission on International Trade Law of the Model Law on International Commercial Conciliation,[4]

Believing that the Model Law on International Commercial Conciliation will significantly assist States in enhancing their legislation governing the use of modern conciliation or mediation techniques and in formulating such legislation where none currently exists,

Noting that the preparation of the Model Law on International Commercial Conciliation was the subject of due deliberation and extensive consultations with Governments and interested circles,

Convinced that the Model Law, together with the Conciliation Rules recommended by the General Assembly in its resolution 35/52 of 4 December 1980, significantly contributes to the establishment of a harmonized legal framework for the fair and efficient settlement of disputes arising in international commercial relations,

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[4] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17), annex I.

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for completing and adopting the Model Law on International Commercial Conciliation, the text of which is contained in the annex to the present resolution, and for preparing the Guide to Enactment and Use of the Model Law;

2. *Requests* the Secretary-General to make all efforts to ensure that the Model Law on International Commercial Conciliation, together with its Guide to Enactment, becomes generally known and available;

3. *Recommends* that all States give due consideration to the enactment of the Model Law on International Commercial Conciliation, in view of the desirability of uniformity of the law of dispute settlement procedures and the specific needs of international commercial conciliation practice.

Annex

Model Law on International Commercial Conciliation of the United Nations Commission on International Trade Law

Article 1
Scope of application and definitions

(1) This Law applies to international[5] commercial[6] conciliation.

(2) For the purposes of this Law, "conciliator" means a sole conciliator or two or more conciliators, as the case may be.

(3) For the purposes of this Law, "conciliation" means a process, whether referred to by the expression conciliation, mediation or an expression of similar import, whereby parties request a third person or persons ("the conciliator") to assist them in their attempt to reach an amicable settlement of their dispute arising out of or relating to a contractual or other legal relationship. The conciliator does not have the authority to impose upon the parties a solution to the dispute.

(4) A conciliation is international if:

(a) The parties to an agreement to conciliate have, at the time of the conclusion of that agreement, their places of business in different States; or

(b) The State in which the parties have their places of business is different from either:

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[5] States wishing to enact this Model Law to apply to domestic as well as international conciliation may wish to consider the following changes to the text:
- Delete the word "international" in paragraph (1) of article 1; and
- Delete paragraphs (4), (5) and (6) of article 1.

[6] The term "commercial" should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.

(i) The State in which a substantial part of the obligations of the commercial relationship is to be performed; or

(ii) The State with which the subject matter of the dispute is most closely connected.

(5) For the purposes of this article:

(a) If a party has more than one place of business, the place of business is that which has the closest relationship to the agreement to conciliate;

(b) If a party does not have a place of business, reference is to be made to the party's habitual residence.

(6) This Law also applies to a commercial conciliation when the parties agree that the conciliation is international or agree to the applicability of this Law.

(7) The parties are free to agree to exclude the applicability of this Law.

(8) Subject to the provisions of paragraph (9) of this article, this Law applies irrespective of the basis upon which the conciliation is carried out, including agreement between the parties whether reached before or after a dispute has arisen, an obligation established by law, or a direction or suggestion of a court, arbitral tribunal or competent governmental entity.

(9) This Law does not apply to:

(a) Cases where a judge or an arbitrator, in the course of judicial or arbitral proceedings, attempts to facilitate a settlement; and

(b) [...]

Article 2
Interpretation

(1) In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

(2) Questions concerning matters governed by this Law which are not expressly settled in it are to be settled in conformity with the general principles on which this Law is based.

Article 3
Variation by agreement

Except for the provisions of article 2 and article 6, paragraph (3), the parties may agree to exclude or vary any of the provisions of this Law.

Article 4
Commencement of conciliation proceedings[7]

(1) Conciliation proceedings in respect of a dispute that has arisen commence on the day on which the parties to that dispute agree to engage in conciliation proceedings.

(2) If a party that invited another party to conciliate does not receive an acceptance of the invitation within thirty days from the day on which the invitation was sent, or within such other period of time as specified in the invitation, the party may elect to treat this as a rejection of the invitation to conciliate.

Article 5
Number and appointment of conciliators

(1) There shall be one conciliator, unless the parties agree that there shall be two or more conciliators.

(2) The parties shall endeavour to reach agreement on a conciliator or conciliators, unless a different procedure for their appointment has been agreed upon.

(3) Parties may seek the assistance of an institution or person in connection with the appointment of conciliators. In particular:

(a) A party may request such an institution or person to recommend suitable persons to act as conciliator; or

(b) The parties may agree that the appointment of one or more conciliators be made directly by such an institution or person.

(4) In recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, where appropriate, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

(5) When a person is approached in connection with his or her possible appointment as conciliator, he or she shall disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. A conciliator, from the time of his or her appointment and throughout the conciliation proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him or her.

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[7] The following text is suggested for States that might wish to adopt a provision on the suspension of the limitation period:

Article X. Suspension of limitation period

(1) When the conciliation proceedings commence, the running of the limitation period regarding the claim that is the subject matter of the conciliation is suspended.

(2) Where the conciliation proceedings have terminated without a settlement agreement, the limitation period resumes running from the time the conciliation ended without a settlement agreement.

Article 6
Conduct of conciliation

(1) The parties are free to agree, by reference to a set of rules or otherwise, on the manner in which the conciliation is to be conducted.

(2) Failing agreement on the manner in which the conciliation is to be conducted, the conciliator may conduct the conciliation proceedings in such a manner as the conciliator considers appropriate, taking into account the circumstances of the case, any wishes that the parties may express and the need for a speedy settlement of the dispute.

(3) In any case, in conducting the proceedings, the conciliator shall seek to maintain fair treatment of the parties and, in so doing, shall take into account the circumstances of the case.

(4) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute.

Article 7
Communication between conciliator and parties

The conciliator may meet or communicate with the parties together or with each of them separately.

Article 8
Disclosure of information

When the conciliator receives information concerning the dispute from a party, the conciliator may disclose the substance of that information to any other party to the conciliation. However, when a party gives any information to the conciliator, subject to a specific condition that it be kept confidential, that information shall not be disclosed to any other party to the conciliation.

Article 9
Confidentiality

Unless otherwise agreed by the parties, all information relating to the conciliation proceedings shall be kept confidential, except where disclosure is required under the law or for the purposes of implementation or enforcement of a settlement agreement.

Article 10
Admissibility of evidence in other proceedings

(1) A party to the conciliation proceedings, the conciliator and any third person, including those involved in the administration of the conciliation proceedings, shall not in arbitral, judicial or similar proceedings rely on, introduce as evidence or give testimony or evidence regarding any of the following:

(a) An invitation by a party to engage in conciliation proceedings or the fact that a party was willing to participate in conciliation proceedings;

(b) Views expressed or suggestions made by a party in the conciliation in respect of a possible settlement of the dispute;

(c) Statements or admissions made by a party in the course of the conciliation proceedings;

(d) Proposals made by the conciliator;

(e) The fact that a party had indicated its willingness to accept a proposal for settlement made by the conciliator;

(f) A document prepared solely for purposes of the conciliation proceedings.

(2) Paragraph (1) of this article applies irrespective of the form of the information or evidence referred to therein.

(3) The disclosure of the information referred to in paragraph (1) of this article shall not be ordered by an arbitral tribunal, court or other competent governmental authority and, if such information is offered as evidence in contravention of paragraph (1) of this article, that evidence shall be treated as inadmissible. Nevertheless, such information may be disclosed or admitted in evidence to the extent required under the law or for the purposes of implementation or enforcement of a settlement agreement.

(4) The provisions of paragraphs (1), (2) and (3) of this article apply whether or not the arbitral, judicial or similar proceedings relate to the dispute that is or was the subject matter of the conciliation proceedings.

(5) Subject to the limitations of paragraph (1) of this article, evidence that is otherwise admissible in arbitral or judicial or similar proceedings does not become inadmissible as a consequence of having been used in a conciliation.

Article 11
Termination of conciliation proceedings

The conciliation proceedings are terminated:

(a) By the conclusion of a settlement agreement by the parties, on the date of the agreement;

(b) By a declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration;

(c) By a declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or

(d) By a declaration of a party to the other party or parties and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

Article 12
Conciliator acting as arbitrator

Unless otherwise agreed by the parties, the conciliator shall not act as an arbitrator in respect of a dispute that was or is the subject of the conciliation proceedings or in respect of another dispute that has arisen from the same contract or legal relationship or any related contract or legal relationship.

Article 13
Resort to arbitral or judicial proceedings

Where the parties have agreed to conciliate and have expressly undertaken not to initiate during a specified period of time or until a specified event has occurred arbitral or judicial proceedings with respect to an existing or future dispute, such an undertaking shall be given effect by the arbitral tribunal or the court until the terms of the undertaking have been complied with, except to the extent necessary for a party, in its opinion, to preserve its rights. Initiation of such proceedings is not of itself to be regarded as a waiver of the agreement to conciliate or as a termination of the conciliation proceedings.

Article 14
Enforceability of settlement agreement[8]

If the parties conclude an agreement settling a dispute, that settlement agreement is binding and enforceable ... [*the enacting State may insert a description of the method of enforcing settlement agreements or refer to provisions governing such enforcement*].

Draft resolution III
Enhancing coordination in the area of international trade law and strengthening the secretariat of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Having considered the report of the United Nations Commission on International Trade Law on of its thirty-fifth session,[9]

Noting the demand from Member States, in particular developing countries, for the Commission to provide technical assistance and to prepare legal standards in an increasing number of areas, and that as a result the number of projects of the Commission has more than doubled as compared with previous years,

Noting also the increased need for coordination among a growing number of international organizations that formulate rules and standards for international trade, and the specific function to be performed by the Commission in that respect, as mandated by the General Assembly in its resolution 2205 (XXI) and reiterated in subsequent resolutions,

[8] When implementing the procedure for enforcement of settlement agreements, an enacting State may consider the possibility of such a procedure being mandatory.

[9] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17).

Satisfied that the current working methods of the Commission have proved their efficiency,

Concerned, however, about the increased demands on personnel resources of the secretariat of the Commission resulting from the increased work programme and its impending inability to continue servicing the Commission's working groups and performing other related tasks such as assisting Governments, which could also lead to the Commission having to defer or discontinue work on topics on its agenda and to reduce the number of its working groups,

1. *Emphasizes* the need for higher priority to be given to the work of the United Nations Commission on International Trade Law in view of the increasing value of the modernization of international trade law for global economic development and thus for the maintenance of friendly relations among States;

2. *Takes note* of the recommendation contained in the report of the Office of Internal Oversight Services on the in-depth evaluation of legal affairs[10] that the Office of Legal Affairs should review the requirements of the Commission's secretariat entailed by the expansion in the number of its working groups from three to six and present to the Commission, at its upcoming review of the practical applications of the new working methods, different options that would ensure the necessary level of secretariat services;

3. *Requests* the Secretary-General to consider measures to strengthen the secretariat of the Commission within the bounds of the resources available in the Organization, if possible during the current biennium, and in any case during the biennium 2004-2005.

Draft resolution IV
Enlargement of the membership of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolution 3108 (XXVIII) of 12 December 1973, by which it increased the membership of the Commission from twenty-nine to thirty-six States,

Being satisfied with the practice of the Commission of inviting States not members of the Commission and relevant intergovernmental and international non-governmental organizations to participate as observers in the sessions of the Commission and its working groups and to take part in the formulation of texts by the Commission, as well as with the practice of reaching decisions by consensus without a formal vote,

[10] E/AC.51/2002/5, recommendation 15.

Observing that the considerable number of States that have participated as observers and made valuable contributions to the work of the Commission indicates that there exists an interest in active participation in the Commission beyond the current thirty-six member States,

Convinced that wider participation of States in the work of the United Nations Commission on International Trade Law would further the progress of the Commission's work and that an increase in the membership of the Commission would stimulate interest in the work of the Commission,

Having considered comments by States,[11] as well as a report of the Secretary-General,[12] on the implications of increasing the membership of the Commission, submitted pursuant to paragraph 13 of General Assembly resolution 55/151 of 12 December 2000,

1. *Takes note* of the fact that the impact of an increase in the membership of the United Nations Commission on International Trade Law on the secretariat services required to properly facilitate the work of the Commission would not be material enough to quantify and that the increase would therefore have no financial implications;

2. *Decides* to increase the membership of the United Nations Commission on International Trade Law from thirty-six to sixty States, bearing in mind that the Commission is a technical body whose composition reflects, inter alia, the specific requirements of the subject matter. The regional representation resulting from this increase in membership, which takes those requirements into account, shall not be a precedent for the enlargement of other bodies in the United Nations system;

3. *Decides also* that the twenty-four additional members of the Commission shall be elected by the General Assembly for a term of six years, except as provided in subparagraph (b) below, in accordance with the following rules:

(a) In electing the additional members, the General Assembly shall observe the following distribution of seats:

(i) Five from African States;

(ii) Seven from Asian States;

(iii) Three from Eastern European States;

(iv) Four from Latin American and Caribbean States;

(v) Five from Western European and other States;

(b) Of the twenty-four additional members elected at the first election, to be held during the fifty-eighth session of the General Assembly, the term of thirteen members shall expire on the last day prior to the beginning of the fortieth session of the Commission, in 2007; the President of the General Assembly shall, by drawing lots, select these members as follows:

(i) Two from those elected from African States, two from those elected from Eastern European States and two from those elected from Western European and other States;

[11] See *Official Records of the Fifty-sixth Session, Supplement No. 17* (A/56/17), para. 370.
[12] A/56/315.

(ii) Four from those elected from Asian States;

(iii) Three from those elected from Latin American and Caribbean States;

(c) The twenty-four additional members elected at the first election shall take office from the first day of the thirty-seventh session of the Commission, in 2004;

(d) The provisions of section II, paragraphs 4 and 5, of General Assembly resolution 2205 (XXI) shall also apply to the additional members;

4. *Appeals* to Governments, the relevant United Nations organs, organizations, institutions and individuals, in order to ensure full participation by the member States in the sessions of the Commission and its working groups, to consider making voluntary contributions to the Trust Fund established to provide travel assistance to developing countries that are members of the Commission, at their request, and in consultation with the Secretary-General.